REMARKS

The following remarks are made in response to the Final Office Action mailed June 9, 2005 in which claims 1-27 were rejected. With this Response, claims 1, 8-9, 11-12, 16, 21-22, 24, and 27 have been amended. Claims 1-27 remain pending in the application and are presented for reconsideration and allowance.

Drawing Corrections

Upon further review of the drawings, Applicant has noted that Figure 4 includes an typographical error in the term "scheduling" in the term "monetary priority scheduling queue" (identified by reference numeral 322) which should be "scheduling". Applicant has submitted a proposed drawing correction, and respectfully request approval of the corrected drawing.

Claim Rejections under 35 U.S.C. § 112

Claims 3-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite

Applicant believes that claims 3-10 are definite in their present form. In particular, the preamble of these dependent claims 3-10 (e.g. claim 3 states "the method of claim 1 wherein receiving a first resource request") merely restates the language of claim 1 as it appears in the base claim (e.g. independent claim 1) to clearly reference which aspect of the base claim is being further defined in the dependent claim (e.g. claim 3). To change the term "a" to the term "the" in the dependent claims (e.g., dependent claim 3) would appear to make the claim less definite as the phrase "receiving the first resource request" does not appear in the base claim (e.g., independent claim 1).

Moreover, in the body of each of these dependent claims (e.g., dependent claim 3), the term "first resource request" is preceded by the term "the" in accordance with the proper antecedent basis having been made in the base claim (e.g., independent claim 1).

For substantially the same reasoning, Applicant respectfully submits that claim 6 is definite regarding use of the term "a web browser" because the intervening claim 5 recites "establishing a web browser" and claim 6 in its preamble merely restates the language from claim 5 that is being further defined in claim 6.

Applicant has amended claim 8 to delete the phrase "monetary priority scheduler queue", thereby obviating the rejection of claim 8.

For these reasons, Applicant believes that the rejection for indefiniteness have overcome. Accordingly, Applicant respectfully requests withdrawal of the Section 112 rejection regarding claims 3-10.

Claim Rejections under 35 U.S.C. § 103

Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broder et al. U.S. Patent No. 5,991,808 in view of Marsh et al. U.S. Patent No. 5,848,397.

Applicant's amended independent claim 1 is directed to a method of prioritizing computer resource requests. Applicant's claimed method specifies, among other things, processing, via a monetary priority scheduling queue, a first resource request from preferred subscribers (having a monetary priority queue designation) prior to non-preferred subscribers (having a non-monetary priority queue designation) based exclusively on the monetary priority queue designation having a higher priority than the non-monetary priority queue designation.

As admitted in the Office Action, Broder fails to disclose granting a monetary priority queue designation upon payment for the monetary priority queue designation by the preferred subscriber. As further admitted in the Office Action, Broder fails to disclose a monetary priority scheduling queue, and processing the monetary priority queue designation first. Applicant affirms these admissions, and provides additional comments regarding Broder supporting the patentability of Applicant's claim 1 over Broder and Marsh.

Broder is directed to a system in which a task directing unit identifies a low load server from a bank of servers. This system is directed to more efficient and quicker load balancing. However, after the query is made to a limited number of randomly selected servers, as stated in Broder, "the task is received by the least loaded of the servers 60 or 66, and entered into the server's queue 60' or 66', as applicable. When the task is at the head of the queue, it is serviced by the server . . .. " See Broder at Column 6, lines 13-15. Broder earlier defines that each server includes a first-in-first-out (FIFO) task queue for queueing each task request. See Broder at Column 4, lines 25-27 Accordingly, in Broder, the entire

mechanism of selecting a server to handle a request takes place before entry of a request into a FIFO server.

Moreover, in Broder, any fees paid by a client 14 to ensure priority service is related to selecting a low load server from a bank of servers by querying a higher number (e.g., three instead of two) of randomly selected servers among the full bank of servers. Once this query is made to select a server, the request is apparently still handled on a FIFO basis by the selected server. See Broder at Column 6, lines 13-15 and 27-39. Accordingly, this type of "priority" service in Broder does not place a preferred subscriber higher in a priority scheduling queue of a throughput resource, as claimed by Applicant. At no time does Broder disclose or suggest altering the nature of the queue: Broder only discloses a mechanism for selecting a least loaded server prior to placement of the request in the queue of the selected server.

Therefore, it is not proper to combine the disjointed passages of Broder in the Office Action in rejecting claim 1 regarding a "client willing to pay an additional fee" and "a first-in-first-out task queue" since there is no disclosure in Broder that payment alters the FIFO queue. Again, as previously stated, in Broder, the payment of an additional fee does not change a place in a queue, but merely changes the mechanism for selecting a least loaded server.

Marshi does not cure the deficiencies of Broder. Marsh is directed generally to advertising to client users via an internet service provider. First, Marsh discloses directly sorting advertisements in each of its several priority queues based on four factors, none of which include a monetary priority queue designation, as claimed by Applicant. Instead, these four factors of the scheduling criteria (for placement in different queues in the system of Marsh) include: (1) time to expiration; (2) time since last seen; (3) maximum exposures: and (4) percent remaining exposures. See Column 9, lines 40-49 and Column 3, lines 67-69 to Column 4, lines 1-6. None of these factors are equivalent to basing a higher placement in a queue exclusively on a monetary priority designation (for a preferred subscriber) relative to a non-monetary priority designation (for a non-preferred subscriber), as claimed by Applicant. Instead, these four factors in Marsh relate to whether or not the internet service provider is showing the advertisements on a time basis. Stated another way, the queues in Marsh appear to sort priority in each queue based on a time or frequency basis.

Accordingly, Broder and Marsh, alone or in combination, do not disclose granting a monetary priority queue designation to a preferred subscriber for preferential placement in a monetary priority scheduling queue in a throughput resource upon payment for the monetary priority queue designation by the preferred subscriber, as claimed by Applicant. Therefore, Marsh and Broder also fail to disclose processing, via a monetary priority scheduling queue that is a non-first-in-first-out queue, a first resource request from the preferred subscriber **prior to** processing a second resource request from the non-preferred subscriber **based exclusively on the monetary priority queue designation having a higher priority for processing than the non-monetary priority queue designation**

Therefore, one cannot combine Broder and Marsh and arrive at Applicant's independent claim 1.

For these reasons, Broder and Marsh fail to teach or suggest Applicant's independent claim 1. Accordingly, Applicant's believe that independent claim 1 is allowable over Broder and/or Marsh. Claims 2-10 are believed to be allowable based on their dependency from independent claim 1.

For substantially the same reasons as presented for patentability of claim 1, Broder and Marsh fail to disclose Applicant's amended independent claim 24 which is directed to a computer readable medium having computer-executable instructions for performing a method of monetarily prioritizing computer resource requests-- the method including substantially the same limitations as claim 1. For these reasons, Broder and Marsh fail to teach or suggest amended independent claim 24, and therefore Applicant's amended independent claim 24 is patentable and allowable over Broder and Marsh. Claims 25-26 are believed to be allowable as well based on their dependency from claim 24.

Applicants' independent claim 11 directed to a method of handling job requests on a monetary priority basis. Applicant's claimed method specifies, among other things, that a job request is scheduled for each subscriber, which is a client user, in a non-first-in-first-out queue based on a priority queue designation with the job requests from each subscriber having the monetary priority queue designation being performed prior to job requests from each subscriber having the non-monetary priority queue designation.

As admitted in the Office Action (regarding claims 1 and 11), Broder fails to disclose granting a monetary priority queue designation upon payment for the monetary priority queue designation by the preferred subscriber. As further admitted in the Office Action, Broder fails to disclose a monetary priority scheduling queue, and processing the monetary priority queue designation first. Applicant affirms these admissions, and provides additional comments regarding Broder supporting the patentability of Applicant's claim 11 over Broder and Marsh.

As previously presented regarding claim 1, Broder is directed to a system in which a task directing unit identifies a low load server from a bank of servers and the entire mechanism of selecting a server to handle a request takes place before entry of a request into a FIFO server. Moreover, in Broder, any fees paid by a client 14 to ensure priority service is related to selecting a low load server from a bank of servers by querying a higher number (e.g., three instead of two) of randomly selected servers among the full bank of servers. Once this query is made to select a server, the request is still handled on a FIFO basis by the selected server. See Broder at Column 6, lines 13-15 and 27-39. Accordingly, in Broder, the payment of an additional fee does not change a place in a queue, but merely modifies the mechanism for selecting a least loaded server.

Moreover, in Applicant's amended independent claim 11, Applicant's queue is directly specified as being a non-first-in-first-out queue, which is in direct contrast to Broder's FIFO queue.

Marshi does not cure the deficiencies of Broder. Marsh is directed generally to providing advertisements, by advertisers, via an internet service provider to a client user. In Marsh, the clients/users do not pay for priority scheduling of advertisements: the advertisers do. Therefore, a job request made by a subscriber as a client user, as claimed by Applicant, has nothing to do with the queue and advertisement sorting for advertisers in Marsh.

Second, Marsh discloses directly sorting advertisements in each of its several different priority queues based on four factors, none of which are include a monetary priority queue designation, as claimed by Applicant. Instead, these four factors of the scheduling criteria (for placement in different queues in the system of Marsh) include: (1) time to expiration; (2) time since last seen; (3) maximum exposures: and (4) percent remaining exposures. See Column 9, lines 40-49 and Column 3, lines 67-69 to Column 4, lines 1-6. None of these factors are

equivalent to basing a higher placement in a queue on a monetary priority designation (for a client user as a subscriber) relative to a non-monetary priority designation (for a client user/subscriber), as claimed by Applicant. Instead, these four factors in Marsh relate to whether or not the internet service provider is showing the advertisements on a time basis, on behalf of the advertisers and **not** on behalf of a client user/subscriber.

Accordingly, Broder and Marsh, alone or in combination, do not disclose (among other things) establishing a monetary priority queue designation to a client user/subscriber for scheduling job requests of that client user/subscriber in a non-first-in-first-out queue for performance prior to job requests from client user/subscribers having a non-monetary priority queue designation, as claimed by Applicant.

For these reasons, neither Broder nor Marsh, alone or in combination, disclose or suggest or make obvious Applicant's independent claim 11. Accordingly, Applicant's believe that independent claim 11 is allowable over Broder and/or Marsh.

For substantially the same reasons as presented for patentability of claim 11, Broder and Marsh fail to disclose Applicant's amended independent claim 27 which is directed to a computer readable medium having computer-executable instructions for performing a method of handling resource requests on a monetary priority basis-- the method including substantially the same limitations as claim 11. For these reasons, Broder and Marsh fail to teach or suggest amended independent claim 27, and therefore Applicant's amended independent claim 27 is patentable and allowable over Broder and Marsh.

Applicants' independent claim 12 is directed to a priority resource request handling system that is not taught or suggested by Broder and/or Marsh. This priority resource request handling system comprises a first subscriber, a second subscriber, and a throughput resource. The first subscriber has a first **fixed** monetary priority queue designation and a second subscriber has a second **fixed** monetary priority queue designation. The throughput resource has a priority scheduling queue configured for handling resource requests of the first subscriber prior to handling resource requests of the second subscribers based on their respective monetary priority queue designations. The first **fixed** monetary priority queue designation is obtained via payment by the first subscriber to the throughput resource to

always gain higher priority processing relative to the second fixed monetary priority queue designation.

As admitted in the Office Action, Broder fails to disclose granting a monetary priority queue designation upon payment for the monetary priority queue designation by the preferred subscriber. As further admitted in the Office Action, Broder fails to disclose a monetary priority scheduling queue, and processing the monetary priority queue designation first. Applicant affirms these admissions, and provides additional comments regarding Broder supporting the patentability of Applicant's claim 12 over Broder and Marsh.

As previously presented regarding claims 1 and 11, Broder is directed to a system in which a task directing unit identifies a low load server from a bank of servers and the entire mechanism of selecting a server to handle a request takes place before entry of a request into a FIFO server. Moreover, in Broder, any fees paid by a client 14 to ensure priority service is related to selecting a low load server from a bank of servers by querying a higher number (e.g., three instead of two) of randomly selected servers among the full bank of servers. Once this query is made to select a server, the request is still handled on a FIFO basis by the selected server. See Broder at Column 6, lines 13-15 and 27-39. Accordingly, in Broder, the payment of an additional fee does not change a place in a queue, but merely modifies the mechanism for selecting a least loaded server.

Marshi does not cure the deficiencies of Broder. Marsh is directed generally to advertising to client users via an internet service provider. First, Marsh discloses directly sorting advertisements in each of its several different priority queues based on four factors, none of which include a monetary priority queue designation, as claimed by Applicant. Instead, these four factors of the scheduling criteria (for placement in different queues in the system of Marsh) include: (1) time to expiration; (2) time since last seen; (3) maximum exposures: and (4) percent remaining exposures. See Column 9, lines 40-49 and Column 3, lines 67-69 to Column 4, lines 1-6.

None of these factors are equivalent to basing a higher placement in a queue for a first fixed monetary priority designation (for a first subscriber) relative to a second fixed monetary priority designation (for a non-preferred subscriber) based on payment for that preference by the first subscriber, as claimed by Applicant.

Instead, these four factors in Marsh relate to whether or not the internet service provider is showing the advertisements on a time or frequency basis. Apparently, the order of advertisements in the queue of Marsh changes depending upon the value of one or more of these four factors. Accordingly, the order in the queue apparently is not based on a fixed designation that maintains the relative priority always in the same order, as claimed by Applicant.

For these reasons, Marsh does not cure the deficiencies of Broder.

Accordingly, Broder and Marsh, alone or in combination, do not disclose a system in which a first fixed monetary priority queue designation to a first subscriber always gains preferential placement in a queue upon payment for the preferential treatment relative to a second subscriber with a second fixed monetary priority queue designation, as claimed by Applicant.

Accordingly, one could not combine Broder in view of Marsh and arrive at the invention of independent claim 12.

For these reasons, neither Broder nor Marsh, alone or in combination, disclose or suggest or make obvious Applicant's independent claim 12. Accordingly, Applicant's believe that independent claim 12 is allowable over Broder and/or Marsh. Claims 13-15 are believed to be allowable based on their dependency from independent claim 12.

Applicants' independent claim 16 is directed to a pay for performance prioritized internet communication system. The system comprises a preferred web browser and an internet service provider. The preferred web browser is configured to have a monetary priority queue designation. The internet service provider is configured to act as a throughput resource including a non-first-in-first-out queue for processing requests from the preferred web browser prior to processing other requests in the non-first-in-first-out queue that lack a monetary priority queue designation. The preferred web browser obtains the monetary priority queue designation via payment to the internet service provider to gain preferential processing in the non-first-in-first out queue.

As admitted in the Office Action (regarding claims 1 and 16), Broder fails to disclose granting a monetary priority queue designation upon payment for the monetary priority queue designation by the preferred subscriber. As further admitted in the Office Action, Broder

fails to disclose a monetary priority scheduling queue, and processing the monetary priority queue designation first. Applicant affirms these admissions, and provides additional comments regarding Broder supporting the patentability of Applicant's claim 16 over Broder and Marsh.

As previously presented regarding Applicant's claims 1, 11, and 12, Broder is directed to a system in which a task directing unit identifies a low load server from a bank of servers and the entire mechanism of selecting a server to handle a request takes place before entry of a request into a FIFO server. Moreover, in Broder, any fees paid by a client 14 to ensure priority service is related to selecting a low load server from a bank of servers by querying a higher number (e.g., three instead of two) of randomly selected servers among the full bank of servers. Once this query is made to select a server, the request is still handled on a FIFO basis by the selected server. See Broder at Column 6, lines 13-15 and 27-39. Accordingly, in Broder, the payment of an additional fee does not determine a place in a queue, but merely modifies the mechanism for selecting a least loaded server.0

Moreover, in Applicant's amended independent claim 16, Applicant's queue is directly specified as being a non-first-in-first-out queue, which is in direct contrast to Broder's FIFO queue.

Marshi does not cure the deficiencies of Broder. Marsh is directed generally to providing advertisements, by advertisers, via an internet service provider to a client user. In Marsh, the clients/users do not pay for priority scheduling of advertisements: the advertisers do. Therefore, a processing request made by a **web browser**, as claimed by Applicant, has nothing to do with the queue and advertisement sorting for advertisers in Marsh. Accordingly, Marsh does not address the limitations of Applicant's claimed system.

Second, Marsh discloses directly sorting advertisements in each of its several different priority queues based on four factors, none of which are include a monetary priority queue designation, as claimed by Applicant. Instead, these four factors of the scheduling criteria (for placement in different queues in the system of Marsh) include: (1) time to expiration; (2) time since last seen; (3) maximum exposures: and (4) percent remaining exposures. See Column 9, lines 40-49 and Column 3, lines 67-69 to Column 4, lines 1-6. None of these factors are equivalent to an internet service provider having a non-first-in-first-out queue for a web browser having a monetary priority designation prior to processing other requests that lack a

monetary priority designation, as claimed by Applicant. Instead, these four factors in Marsh relate to whether or not the internet service provider is showing the advertisements on a time basis, on behalf of the advertisers and **not** on behalf of a web browser.

Accordingly, Broder and Marsh, alone or in combination, do not disclose (among other things) an internet service provider including a non-first-in-first-out queue for processing requests of a preferred web browser prior to processing other requests that lack a monetary priority queue designation, as claimed by Applicant.

For these reasons, neither Broder nor Marsh, alone or in combination, disclose or suggest or make obvious Applicant's independent claim 16. Accordingly, Applicant's believe that independent claim 16 is allowable over Broder and/or Marsh. Claims 17-20 and 23 are believed to be allowable based on their dependency from independent claim 16.

Applicants' amended independent claim 21 directed to a priority resource request handling system. The system comprises a plurality of computer resources communicating with each other in series, the computer resources including at least two of a local area network, an internet service provider, a router, and a server. One of the at least two computer resources comprises a preferred subscriber and is configured to hold a monetary priority designation obtained via payment. The other of the at least two computer resources comprises a throughput resource configured to provide internet-based services to the preferred subscriber. The throughput resource includes a non-first-in-first-out queue configured for prioritizing computer resource requests on a monetary priority basis using the monetary priority queue designation of the preferred subscriber relative to other subscribers not having the monetary priority queue designation.

As admitted in the Office Action (regarding claims 1 and 11), Broder fails to disclose granting a monetary priority queue designation upon payment for the monetary priority queue designation by the preferred subscriber. As further admitted in the Office Action, Broder fails to disclose a monetary priority scheduling queue, and processing the monetary priority queue designation first. Applicant affirms these admissions, and provides additional comments regarding Broder supporting the patentability of Applicant's claim 21 over Broder and Marsh.

Broder is directed to a system in which a task directing unit identifies a low load server from a bank of servers to regulate requests from a client user to a server.

This system is directed to more efficient and quicker load balancing. However, after the query is made to a limited number of randomly selected servers, as stated in Broder, "the task is received by the least loaded of the servers 60 or 66, and entered into the server's queue 60' or 66', as applicable. When the task is at the head of the queue, it is serviced by the server . . .. " See Broder at Column 6, lines 13-15. Broder earlier defines that each server includes a first-in-first-out (FIFO) task queue for queueing each task request. See Broder at Column 4, lines 25-27 Accordingly, in Broder, the entire mechanism of selecting a server to handle a request takes place before entry of a request into a FIFO server.

Moreover, in Applicant's amended independent claim 21, Applicant's queue is directly specified as being a non-first-in-first-out queue, which is in direct contrast to Broder's queue.

In addition, in Broder, any fees paid by a client 14 to ensure priority service is related to selecting a low load server from a bank of servers by querying a higher number (e.g., three instead of two) of randomly selected servers among the full bank of servers. Once this query is made to select a server, the request is still handled on a FIFO basis by the selected server. See Broder at Column 6, lines 13-15 and 27-39. Accordingly, this type of "priority" service in Broder does not place a preferred subscriber higher in a priority scheduling queue of a throughput resource, as claimed by Applicant. At no time does Broder disclose or suggest altering the nature of the queue: Broder only discloses a mechanism for selecting a least loaded server prior to placement of the request in the queue of the selected server.

Therefore, it is not proper to combine the disjointed passages of Broder in the Office Action in rejecting claim 1 regarding a "client willing to pay an additional fee" and "a first-in-first-out task queue" since there is no disclosure in Broder that payment alters the FIFO queue. These passages in Broder simply do not equate with Applicant's queue, in which, a subscriber comprising one of a local area network, an internet service provider, a router, and a server is placed higher in the queue to be processed prior to other subscribers not having a monetary priority queue designation.

Marshi does not cure the deficiencies of Broder. Marsh is directed generally to providing advertisements, by advertisers, via an internet service provider to a client user. In

Marsh, the clients/users do not pay for priority scheduling of advertisements: the advertisers do. Therefore, a job request made by a subscriber as a one of local area network, a router, a server, or an internet service provider , as claimed by Applicant, has nothing to do with the queue and advertisement sorting for advertisers in Marsh.

Second, Marsh discloses directly sorting advertisements in each of its several different priority queues based on four factors, none of which include a monetary priority queue designation for a subscriber, as claimed by Applicant. Instead, these four factors of the scheduling criteria (for placement in different queues in the system of Marsh) include: (1) time to expiration; (2) time since last seen; (3) maximum exposures: and (4) percent remaining exposures. See Column 9, lines 40-49 and Column 3, lines 67-69 to Column 4, lines 1-6. None of these factors are equivalent to basing a higher placement in a queue on a monetary priority designation (for a subscriber including one of a local area network, a router, a server, and an internet service provider) relative to other subscribers not having the monetary priority queue designation, as claimed by Applicant. Instead, these four factors in Marsh relate to whether or not the internet service provider is showing the advertisements on a time basis, on behalf of the advertisers.

Accordingly, one could not combine Broder in view of Marsh and arrive at the invention of independent claim 21.

For these reasons, neither Broder nor Marsh, alone or in combination, disclose or suggest or make obvious Applicant's independent claim 21. Accordingly, Applicant's believe that independent claim 21 is allowable over Broder and/or Marsh. Claim 22 is believed to be allowable based on its dependency from independent claim 21.

In light of the above, Applicants respectfully request withdrawal of the rejection of claims 1-27 based on Broder and Marsh under 35 U.S.C. §103(a).

CONCLUSION

In view of the above, Applicant respectfully submits that pending claims 1-27 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 1-27 is respectfully requested.

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

Any inquiry regarding this Amendment and Response should be directed to either Jeff D. Limon at Telephone No. (541) 715-5979, Facsimile No. (541) 715-8581 or Paul S. Grunzweig at Telephone No. (612) 767-2504, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

Hewlett-Packard Company
Intellectual Property Administration
P.O. Box 272400
Fort Collins, Colorado 80527-2400

Respectfully submitted,

Jeffrey Scott Weaver et al.,

By their attorneys,

DICKE, BILLIG & CZAJA, PLLC
Fifth Street Towers, Suite 2250
100 South Fifth Street
Minneapolis, MN 55402
Telephone: (612) 767-2504
Facsimile: (612) 573-2005

Date: August 5, 2005
PSG:bac

Paul S. Grunzweig
Reg. No. 37,143

CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope address to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 5th day of August, 2005.

By Paul S. Grunzweig
Name: Paul S. Grunzweig